

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

C.O., individually and on behalf of E.M., a
child with a disability,

Plaintiff,

-against-

NEW YORK CITY DEPARTMENT OF
EDUCATION,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 1/5/2021

20 Civ. 10774 (AT)

ORDER TO SHOW CAUSE

ANALISA TORRES, District Judge:

Plaintiff, C.O., brings this action under the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1415(i)(3) individually and on behalf of E.M., a child with a disability. Compl., ECF No. 1. Plaintiff invokes the Court’s subject matter jurisdiction pursuant to 28 U.S.C. § 1331. *Id.* ¶ 6. Plaintiff argues that venue is appropriate in this district “based upon the residence of the Defendant, and upon . . . the location of the subject matter of this action.” *Id.* ¶ 7.

For the purposes of venue, a civil action may be brought in “(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court’s personal jurisdiction with respect to such action.” 28 U.S.C. § 1391(b).

As far as the Court is aware, Defendant is neither incorporated nor headquartered in the Southern District of New York. Thus, Plaintiff has not demonstrated that venue is proper in this district under § 1391(b)(1). Additionally, Plaintiff alleges that they are a resident of Kings

County, Compl. ¶ 2, does not allege where the injury occurred, *see generally id.*, and does not otherwise allege that the events giving rise to this action occurred in this district, indicating that venue is not proper in this district under § 1391(b)(2). For these reasons, and “in the interest of justice,” the Court is inclined to transfer this case under 28 U.S.C. § 1406 to the United States District Court for the Eastern District of New York. *See* 28 U.S.C. § 112 (“The Eastern District comprises the counties of Kings, Nassau, [and] Queens . . .”).

The Court hereby ORDERS Plaintiff to show cause in writing, by **January 19, 2021**, why this action should not be transferred. If Plaintiff fails to respond within the time allowed, or fails to show that venue is proper in the Southern District of New York and that the action should not be transferred in the interest of justice, the Court shall transfer this case to the United States District Court for the Eastern District of New York.

SO ORDERED.

Dated: January 5, 2021
New York, New York



ANALISA TORRES
United States District Judge